

Against the Grain

Volume 25 | Issue 2

Article 32

April 2013

Questions and Answers-Copyright Column

Laura N. Gasaway

University of North Carolina-Chapel Hill School of Law, laura_gasaway@unc.edu

Follow this and additional works at: <https://docs.lib.purdue.edu/atg>



Part of the [Library and Information Science Commons](#)

Recommended Citation

Gasaway, Laura N. (2013) "Questions and Answers-Copyright Column," *Against the Grain*: Vol. 25: Iss. 2, Article 32.
DOI: <https://doi.org/10.7771/2380-176X.6491>

This document has been made available through Purdue e-Pubs, a service of the Purdue University Libraries. Please contact epubs@purdue.edu for additional information.

Questions & Answers — Copyright Column

Column Editor: **Laura N. Gasaway** (Associate Dean for Academic Affairs, University of North Carolina-Chapel Hill School of Law, Chapel Hill, NC 27599; Phone: 919-962-2295; Fax: 919-962-1193) <laura_gasaway@unc.edu>
www.unc.edu/~uncldg/gasaway.htm

QUESTION: *A museum employee wants to show a film at the museum for the local community for educational purposes with no admission charge. Is the video "The Long Walk Home" with Sissy Spacek and Whoopi Goldberg still under copyright or is it in the public domain? If performance rights are needed, how does one obtain them?*

ANSWER: The motion picture was released in 1990, and it is definitely still under copyright. To show the film to a public group, regardless of whether or not there is an admission charge, is a public performance for which the museum needs permission. The film is distributed by **Miramax Films**, and the museum could contact the company to seek a license for a public performance. Additionally, there are organizations that license the performance of movies which the museum could contact such as **Swank Motion Pictures**. See <http://www.swank.com/>.

QUESTION: *Like many companies and aggregators, a nonprofit corporation produces a small, daily email alert news service for its executives and managers using items from various sources. The alert service supplies the title along with a link to the source accompanied by an abstract that the library prepares. The alerts come from news sources (such as Factiva to which the company subscribes) and other sources on the Web available without a subscription. The library wants to eliminate writing abstracts and substitute a couple of lines of text from the article to indicate the contents (since article titles can at times be catchy but not very helpful). The link to the full article would still be included. Will this infringe copyright?*

ANSWER: An email news alert service as described which is distributed only to staff in the company is unlikely to cause a copyright problem if the information included is restricted to: (1) a link to the article online; (2) a couple of lines of text from the article; and (3) if the text comes from a subscription, the library complies with the terms of the license agreement. It is possible that the license may actually allow reproduction of the entire article rather than just providing a link, but it will take an examination of the individual licenses to determine this. (4) Finally, if the source is on the Web with no subscription required, any license agreement included with the source should be followed.

QUESTION: *An academic library maintains a Website that highlights publications by the university faculty. The Website includes a blurb about the book taken either from a review of the book or the blurb from the publisher and reproduces the book jacket. Is this a copyright problem?*

ANSWER: Reproducing a short portion of a book review or publishers' blurb is likely

to be a fair use since the portion reproduced would be small, the purpose is noncommercial, nonprofit educational use, and it would have no market effect. Use of the book jacket, presents a more difficult issue, however. Often the publisher of the book does not own the copyright in the photograph or artwork on the jacket but instead has only the right to reproduce the work on the jacket. So, the publisher may not be able to grant permission to reproduce the book jacket. It is possible that reproducing the copyrighted image may be a fair use or the library may seek permission to reproduce book jackets.

The use of the images on the book jacket is definitely nonprofit, and there is unlikely to be any negative market effect. However, the nature of the work (art or a photograph) is creative and the amount and substantiality of the portion of the work used is 100%. So, whether the use is a fair use is questionable at best. To obtain permission to include the book jacket on the Website, the library should contact the publisher which will be able to tell the library whether it owns the rights to the image or whether someone else does and how to contact that other owner.

QUESTION: *The Register of Copyrights is currently conducting hearings on orphan works, which has become more important than ever due to mass digitization. It appears that the American Society of Media Photographers again opposes a solution to this problem. What is likely to happen with the development of a solution to the orphan works problem?*

ANSWER: The U.S. Register of Copyrights included developing a solution to orphan works in her two-year priorities for Office. The assumption is that she will propose orphan works legislation; the hearings are a part of the process of evaluating the solution proposed in 2006 by the former Register and making any changes that the testimony dictates. It was the **American Society of Media Photographers (ASMP)** which is credited with blocking passage of orphan works legislation in 2006 and 2008. Media photographers say that their works would be the most likely to be harmed by orphan works legislation since it is easy to strip copyright management information from photographs leaving users to think that the work is an orphan when it is not.

The ASMP submitted reply comments on March 7, 2013. It is unfair to say that the ASMP opposes any solution to the problem. It believes that the only solution is to require attribution to any work used and to use a registry such as **PLUS (Picture Licensing Universal System)** which "can provide systems

for identifying and locating copyright owners, even where attribution has been deleted or corrupted. By incorporating a database of images that can be searched using image-recognition technology, registries have the potential for eliminating the existence of orphan works entirely." Further it opposes any return to increased formalities as the solution for orphan works. The full statement of the ASMP may be found at: http://www.asmp.org/pdfs/Orphan_ASMP_reply.pdf.

QUESTION: *Can authors ask for copyrights to be extended?*

ANSWER: No longer can authors apply for an extension of copyright. Under the **1909 Copyright Act**, copyright protection was provided for 28

years. At the end of that term, the copyright owner could apply for a renewal of copyright for an additional 28 years. The **1976 Act** eliminated copyright renewal and changed the term of copyright to life of the author plus 50 years which was extended to life plus 70 years in 1998. Thus, there is no need for renewal today. However, there are proposals afloat from some copyright scholars to change the term back to a shorter term with a renewal to help solve the orphan works problem as well as to reign in copyright to more have a more reasonable system from a users' standpoint.

QUESTION: *Recently in the press there have been reports about a new Copyright Alert System which has gone into effect. What impact will the Copyright Alert System have on libraries?*

ANSWER: The **Copyright Alert System** is a partnership between copyright owners, specifically entertainment companies, and Internet service providers which was aimed at reducing peer-to-peer file sharing of copyrighted works. As a part of the agreement, the **Center for Copyright Information** was created to educate users about copyright. (See www.copyrightinformation.org). The agreement creates a uniform system of "Copyright Alerts" which consists of six escalating warnings that will be sent to Internet users whose accounts are used to illegally downloading copyrighted material. It is not yet clear what will happen when a user has received six alerts, however, and whether there will be a punitive measure. Internet service providers will still have the right to terminate service to any infringing user, and copyright owners will still have all legal options available to them for enforcing their rights through the court system. There is not likely to be much impact on libraries but instead the impact will be on individual users who illegally download music, motion pictures, etc. 🐼

